

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

MIGUEL-EDUARDO LACKUPS-
FUENTES,

Case No. 18-02493
Hon. Scott W. Dales
Chapter 13

Debtor.

ORDER

PRESENT: HONORABLE SCOTT W. DALES
United States Bankruptcy Judge

The court has reviewed the Debtor's Motion for Turnover of Property (ECF No. 37, the "Motion"), and the Certificate of Service (ECF No. 37-3, "COS") filed therewith. For two reasons the court will deny the Motion without prejudice. First, the court regards the Motion as "a proceeding to recover money or property, other than a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under §554(b) or §725 of the Code, Rule 2017, or Rule 6002," which must take the form of an adversary proceeding. Fed. R. Bankr. P. 7001(1).¹ Second, the COS reflects service by ordinary first class mail, rather than certified mail, as Rule 7004(h) requires for an insured depository institution such as JP Morgan Chase Bank. Although the court recognizes that a party may waive the procedural protections of an adversary proceeding in some circumstances, the court will not find waiver when it is not satisfied that the movant served the motion in accordance with the Rules.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Motion (ECF No. 37) is DENIED without prejudice.

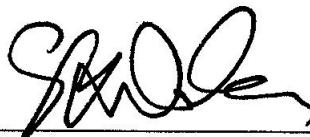
IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon Jeffrey Mapes, Esq., Brett N. Rodgers, Esq., and the United States Trustee.

¹ The court will refer to any Federal Rule of Bankruptcy Procedure or Federal Rule of Civil Procedure simply as "Rule ___," relying on the numbering convention for each set of rules to signal the intended reference. In addition, unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532.

IT IS SO ORDERED.

Dated November 19, 2020





Scott W. Dales
United States Bankruptcy Judge